



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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October 2, 2003

Dr. Diane R. Nielsen
NRD Trustee
Utah Department of Environmental Quality
P.O. Box 144810
Salt Lake City, UT 84114-4810

Subject: Southwest Jordan Valley Ground Water Cleanup Project Proposal to Reduce the Irrevocable Letter Of Credit Under the Consent Decree, Kennecott Utah Copper, Bingham Pit Mine, M/035/002, Salt Lake County, Utah

Dear Dr. Nielson:

Thank you for the opportunity to comment on the proposal to release funds from the Natural Resource Damage Claim (NRDC) Trust Fund.

The Division recommends that sufficient funds be retained to finance the long-term operation, maintenance and subsequent reclamation of facilities required to treat groundwater contaminated when Kennecott Utah Copper (KUCC) ceases production at the mine. Much of the disturbance and subsequent contamination is a result of mining activities conducted after passage of the Mined Land Reclamation Act of 1975. KUCC has stated that this is not, and never will be, a "walk-away" mine; meaning that portions of the mining disturbance will need to be maintained in perpetuity to prevent environmental degradation.

Prior to approving the proposal and contracts for extracting, treating and providing municipal quality water from the contamination plumes, please consider the following:

- Is there financial assurance for the long term maintenance, operation, and reclamation of those facilities and associated pipeline, wells and infrastructure when KUCC leaves? Sufficient funds must remain to cover these costs. The Zone A Reverse Osmosis (RO) plant is within the OGM mine permit area (M/035/002) and the UT Mined Land Reclamation Act does not contemplate perpetual water monitoring. In 1978 our Board of Oil Gas and Mining approved a "Mined Land Reclamation Contract" with Kennecott Copper Corporation (predecessor to KUCC) accepting a personal guarantee of the Operator to reclaim the land. The State of Utah and its citizens are very vulnerable because of this legacy of a 'gentleman's agreement' to reclaim without the actual bonding to back it up.

Dr. Diane Nielsen

Page 2 of 2

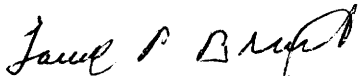
M/035/002

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- The proposal states that waste from the Zone A RO plant and the extracted acid core water will be disposed of through the slurry pipelines into the tailings pond. The pipeline is within the Copperton Concentrator permit area (M/035/011) and the North Tailing Impoundment is within the Northern Impoundment permit area (M/035/015). The mining and reclamation permits and reclamation bonds for the use of these facilities for waste disposal from the RO plant have not been amended for this use. These activities are not authorized and may not proceed until the appropriate mine permits have been amended, and if needed, the reclamation bond adjusted.
- Pumping of the Bingham Pit and maintenance of the up-gradient water will need to continue in perpetuity, in order to keep water levels below the pyrite halo and prevent acid mine drainage, an acid pit-lake and/or further aquifer contamination. Existing dumps and continued disposal of sulfide-bearing waste rock in the Bingham Canyon area may cause water quality to worsen. Can the state and its citizens afford to pay for this perpetual maintenance? We strongly suggest that DEQ retain sufficient funds to cover this maintenance cost.
- The Kennecott NRDC trust fund release proposal should address specific information regarding long-term operational, maintenance and closure arrangements to insure the following: (1) that the pumping and treatment facilities will not fall into disrepair; and (2) once treatment of the contaminated ground water is complete, the infrastructure (support facilities, distribution systems, wells, etc.) that is no longer needed, will be removed and the affected areas restored.

In summary, this Division strongly suggests the retention by Utah DEQ, of a substantial portion of the cash settlement and irrevocable letter of credit and dedicating these funds to ensuring future compliance under the Clean Water Act. If you should have any concerns or questions on any of the above comments, please do not hesitate to contact me at 538-5370, or Mary Ann Wright at 538-5306.

Sincerely,



Lowell P. Braxton, Director

Utah Division of Oil, Gas and Mining

LPB:MAW:jb

cc: Don Ostler, DWQ

Allan Mashburn, BOGM

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